HON'BLE SRI G.S.SINGHVI, THE CHIEF JUSTICE

AND

HON'BLE SRI JUSTICE G.BHAVANI PRASAD

WRIT APPEAL No.17 of 2006

Between:

Depositors Forum, Vasavi Cooperative
Urban Bank Ltd., Hyderabad, rep. by its
Chairman, A.V.V.B.Rama Rao,
Hyderabad. …Appellant.

AND

Registrar of Co-operative Societies,
Hyderabad & others. …Respondents.

:: JUDGMENT ::

Counsel for the Appellant : Mr.D.S.V.G.Nagaraju

Counsel for Respondent Nos.1 & 2 : Government Pleader for Co-operation.

Counsel for Respondent No.3 : Mr.M.P.Ugle

Counsel for Respondent No.4 : Mr.S.Ashok Anand Kumar

Counsel for Respondent Nos.5 to 10: Mr.Venkata Rangadas Kanuri

5th JANUARY 2006

Per G.S.Singhvi, CJ

This appeal is directed against order dated 21-12-2005 passed by the learned Single Judge in WPMP.Nos.1791 and 3537 of 2005 in WPMP.No.3529 of 2005 in Writ Petition No.2608 of 2005.

The appellant is a Forum created to protect the interest and money of the depositors who have invested their wealth in The Vasavi Cooperative Urban Bank Limited (for short 'the Bank'). According to the appellant, third OTS Scheme (modified) issued by the Registrar of Cooperative Societies (respondent No.1) vide his order dated 24-1-2005, which is intended to benefit the borrowers of the Bank is wholly arbitrary and is highly detrimental to the interest of its members. Along with the writ petition, the appellant filed WPMP No.3529 of 2005 for suspending the operation of modified OTS Scheme.

While issuing Rule Nisi, the learned Single Judge suspended the operation of the modified OTS Scheme and left it open to the Bank to recover the amount due from the borrowers (wrongly mentioned as creditors).

After service of notice, two petitions were filed, one by the Bank and the other by the borrowers for vacating the ad interim order. They relied on order dated 7-12-2005 passed by the Supreme Court in C.A.No.6069 of 2005 and pleaded that the Bank may be permitted to enter into settlement with the borrowers in accordance with the modified OTS Scheme.

After considering the arguments of the learned counsel appearing for the parties, the learned Single Judge passed the following order:-

> "This Court while directing Rule Nisi, granted interim suspension of the modified OTS Scheme dated 24-01-2005, and it was left open to the respondents to recover the amount due from the creditors.
>
> Now, it is brought to my notice by the learned counsel for the 4th

respondent – Bank that in the Appeal filed before the Supreme Court, against the order of the Full Bench in **M.Babu Rao v. Deputy Registrar of Co-operative Societies** (2005 (4) ALT 327 (FB), the Supreme Court granted stay of operation of the said judgment as well as prosecution. However, it was left open to the Banks to enter into a settlement with the debtors in accordance with law.

In view of the said order passed by the Supreme Court in C.A.No.6069 of 2005 dated 7-12-2005, it is made clear that it is open to the 4th respondent – Bank to enter into a settlement with the debtors as per the impugned modified scheme following due process of law, however the same shall be subject to the result of the writ petition. The 4th respondent – Bank is also granted liberty to extend the term of OTS scheme till 31-01-2006.

The interim order dated 17-02-2005 shall stand modified accordingly.

Post the writ petition for final hearing in the 2nd week of February, 2006."

At the hearing of the appeal, learned counsel representing the borrowers very fairly stated that the modified OTS Scheme is yet to be approved by the Reserve Bank of India and if the latter approves the same, the appellant cannot have any legitimate grievance. Learned counsel for the Bank gave out that the modified OTS Scheme is pending with the Reserve Bank of India and that in response to an objection raised by it, a reply has been sent. Learned counsel for the appellant submitted that the Bank should not be allowed to operate the modified Scheme without approval of the Reserve Bank of India.

In view of the statements made by learned counsel for the parties, we are convinced that there is no valid ground to nullify the order under challenge and we feel that ends of justice would be met by directing that the Bank shall act upon the impugned modified OTS Scheme only after the same is approved by the Reserve Bank of India. Ordered accordingly.

The appeal is disposed of in the manner indicated above.

G.S. SINGHVI, CJ

5th January, 2006.

G.BHAVANI PRASAD, J.

ARS / svs